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**From:** Sullivan, Melissa [sullivan.melissa@epa.gov]  
**Sent:** 9/11/2019 8:28:28 PM  
**To:** OCSPP Daily Clips [OCSPP-Daily-Clips@epa.gov]  
**Subject:** OCSPP Daily Press Clips 09/11/19

**OCSPP Daily Press Clips**  
**September 11, 2019**

**Chemicals**

<https://chemicalwatch.com/81910/epa-issues-supplemental-proposal-on-tsca-cbi>

**Pesticides**

<https://www.rollicall.com/news/congress/watch-pesticides-used-marijuana-may-pose-unknown-public-health-risks>  
<https://news.bloombergenvironment.com/environment-and-energy/syngenta-crop-protection-loses-bid-to-delist-herbicides-as-toxic>  
<https://www.agri-pulse.com/articles/12585-roundup-defenders-detractors-have-their-say-on-epa-proposal>

**PFAS**

<https://news.bloombergenvironment.com/environment-and-energy/chemours-dupont-conflict-heightens-over-fluorochemicals>  
<https://news.bloombergenvironment.com/environment-and-energy/colorado-hastens-cleanup-as-pfas-found-in-more-sites-near-denver>  
<https://www.eenews.net/greenwire/2019/09/10/stories/1061111775>  
<https://www.politico.com/newsletters/morning-energy/2019/09/10/pfas-manufacturers-lawmakers-to-clash-at-hearing-476069>  
<https://subscriber.politicopro.com/article/2019/09/chemical-makers-seek-to-dodge-culpability-at-pfas-hearing-1722696>  
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**Chemicals**

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**ChemicalWatch**

**"EPA issues supplemental proposal on TSCA CBI"**

<https://chemicalwatch.com/81910/epa-issues-supplemental-proposal-on-tsca-cbi>

**Kelly Franklin**

The US EPA has sent out a supplement to its proposed TSCA confidential business information (CBI) procedural rule for interagency review. The move was felt necessary in order to address a recent court decision.

At issue is a TSCA CBI procedural rule that sets out a plan for the EPA to review existing claims to withhold as confidential a substance's chemical identity. Proposed in April, it establishes a process under which businesses would substantiate those claims so that the agency can review them and determine their validity.

But just days after the EPA issued its proposal, a court handed down a ruling that had ramifications for the CBI rule.

In a legal challenge to the TSCA final inventory notification rule, brought by the Environmental Defense Fund, the court determined that the EPA had erred by failing to require companies to substantiate that a confidential chemical is not "readily discoverable through reverse engineering".

In May, the agency signalled that it might supplement its earlier rule to address this shortcoming. And on 29 August the Office of Management and Budget (OMB) received a proposal.

The EPA told Chemical Watch that as part of the agency's response to the court ruling, it is "seeking to supplement the April 2019 proposed rule establishing a plan to review CBI claims for chemical identity" asserted during the inventory reset process.

The spokesperson added that it intends to provide public notice in the Federal Register and an opportunity for public comment on the supplemental proposed rule.

#### ACC request

But even while it takes this action, the American Chemistry Council has asked the agency to allow further comment on the original April proposal. This, the ACC has argued, would allow stakeholders to weigh in on it in view of a "directly relevant Supreme Court decision" on confidentiality.

In a 9 August letter to the EPA, the ACC requested that comment periods be reopened for both the CBI procedural rule and a proposal related to the TSCA chemical data reporting (CDR) rule in order to address the 24 June Supreme Court decision in *Food Marketing Institute v Argus Leader Media*, dba [doing business as] *Argus Leader*.

While not directly related to TSCA, the *Food Marketing Institute* decision held that 'competitive harm' is not an appropriate consideration under exemption 4 of the Freedom of Information Act (Foia).

Instead, Supreme Court Justice Neil Gorsuch wrote in an opinion, "at least where commercial or financial information is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy, the information is 'confidential' within the meaning of exemption 4 [of Foia]."

The ACC told the EPA that both the CBI and CDR proposals require substantiation of confidentiality claims regarding the harm to the submitter's competitive position that would result from the information's disclosure. And, it said, both proposals would require the EPA to review CBI claims in light of Foia regulations.

Therefore, the ACC said, the agency should "allow other stakeholders to provide their views on the relevance of this seminal decision before finalising these two rules."

The EPA told Chemical Watch it is considering a request to reopen the comment period for the CDR amendments proposal and there will be a public comment opportunity on the CBI procedural rule supplement. It is unclear if the latter would allow for comment on the entire rule, or only on the matter of reverse engineering substantiation.

However, even if the agency does grant the request for additional comment, the challenge to the substantiation requirement for competitive harm is likely to prove difficult. The 2016 Lautenberg Act expressly states that an assertion for a confidentiality claim under TSCA must include a statement that there is "a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person."

Details on a release date for the supplemental CBI proposal were not immediately available.

#### **Pesticides**

<https://www.rollicall.com/news/congress/watch-pesticides-used-marijuana-may-pose-unknown-public-health-risks>

<https://news.bloombergenvironment.com/environment-and-energy/syngenta-crop-protection-loses-bid-to-delist-herbicides-as-toxic>

<https://www.agri-pulse.com/articles/12585-roundup-defenders-detractors-have-their-say-on-epa-proposal>

## **Roll Call**

**"Watch: Pesticides used on marijuana may pose unknown public health risks"**

<https://www.rollcall.com/news/congress/watch-pesticides-used-marijuana-may-pose-unknown-public-health-risks>

**Thomas McKinless**

CQ Roll Call's Jacob Holzman explains that because of the federal prohibition on marijuana, the Environmental Protection Agency won't test the effects of pesticides on marijuana plants the way it does for other crops, meaning it's unclear if the chemicals could be causing contamination. Watch the video for more.

## **Bloomberg Environment**

**"Syngenta Crop Protection Loses Bid to Delist Herbicides as Toxic"**

<https://news.bloombergenvironment.com/environment-and-energy/syngenta-crop-protection-loses-bid-to-delist-herbicides-as-toxic>

**Peter Hayes**

Syngenta Crop Protection LLC lost a bid to delist a group of chemicals used as herbicides as toxic under California's Prop. 65.

To support a listing of a chemical, the state doesn't need to find it's a reproductive toxicant to humans, the California Court of Appeals said Sept. 10 in an unpublished decision.

It's sufficient if the state finds, as it did here, that the chemical causes reproductive toxicity in animals, the court said.

The company sought to undo the Office of Environmental Health Hazard Assessment's August 2015 listing of triazines, including atrazine, propazine, and simazine.

Syngenta, by failing to provide the court with a summary of facts in its brief, waived any argument that there was insufficient evidence to support the agency's determination, the court said.

Syngenta argued that the record doesn't support the OEHHHA's finding that the U.S. Environmental Protection Agency formally identified triazines as chemicals causing reproductive toxicity, or the OEHHHA's finding that it's plausible for the chemicals to cause reproductive toxicity in humans.

Judge Kathleen Butz wrote the opinion, joined by Judges Harry E. Hull, Jr. and William J. Murray, Jr.

## **Agri-Pulse**

**"Roundup defenders, detractors have their say on EPA proposal"**

<https://www.agri-pulse.com/articles/12585-roundup-defenders-detractors-have-their-say-on-epa-proposal>

**Steve Davies**

Pro- and anti-glyphosate companies and organizations lined up to praise — or bash — the active ingredient in the most widely applied herbicide in the world, in comments submitted to the Environmental Protection Agency last week.

The subject was a Proposed Interim Decision (PID) issued by EPA in May, a critical step in the multiyear process to re-register the herbicide.

In general, defenders of the product, used in Roundup, Ranger Pro and other formulations, stressed the chemical's value to growers and findings by regulatory bodies around the world that "continue to support the safety of glyphosate-based

products when used as directed and that glyphosate is not carcinogenic,” as Ty Vaughn, global regulatory lead for Bayer, said in comments submitted to EPA.

Detractors, however, pointed to analyses, conducted since EPA issued its last carcinogenicity study in December 2017, identifying cancer risks associated with exposure to glyphosate and glyphosate-based herbicide products.

In its PID, EPA reaffirmed an earlier conclusion that glyphosate is not likely to cause cancer but proposed a few changes to its label language. Applicators would not be allowed to spray during temperature inversions. For aerial applications, spraying could not take place when wind speeds exceed 15 mph at the application site. For both ground and aerial applications, applicators would have to use “fine” or coarser droplets as indicated in nozzle manufacturers’ catalogs.

The agency’s deliberations come as glyphosate continues to be the subject of controversy in the U.S. and elsewhere. Three court cases have resulted in awards totaling more than \$80 million in punitive damages, after juries found enough evidence to connect Roundup exposure to their non-Hodgkin lymphoma. And Germany recently decided to ban glyphosate by the end of 2023.

The Joint Glyphosate Task Force, whose 20-plus members all have registrations for technical grade glyphosate, said in its comments it’s “essential” that U.S. farmers be able to continue to use glyphosate.

“It is a critical component in maintaining economic and environmental sustainability in agriculture,” the JGTF said. “Adoption of glyphosate-tolerant cropping systems is associated with an increased adoptability of conservation tillage, resulting in a number of benefits: reduced soil erosion, improved soil and water quality and lower carbon dioxide emissions.”

Bayer, which bought Monsanto last year, inheriting both glyphosate and its attendant lawsuits, said glyphosate is “critical to maintain environmental sustainability in agriculture” and also has helped farmers generate off-farm income because of reduced labor requirements to grow crops. In addition, it’s cost-effective, the company said, citing an economic analysis of highway median control that showed glyphosate was “275% less expensive than alternative methods that included multiple mowing events and alternative herbicides.”

On the issue of the chemical’s toxicity, Bayer said industry data in reviews by regulatory authorities show glyphosate is safe to use as directed. “In evaluations spanning four decades, the overwhelming conclusion of experts worldwide has been that glyphosate, when used per label directions, does not present an unreasonable risk of adverse effects to humans, wildlife or the environment.”

The Natural Resources Defense Council said in its comments that since EPA issued its most recent paper on glyphosate carcinogenicity in December 2017, there have been “some new and updated scientific studies published, as well as two more recent meta-analyses that include the new studies. These all identify cancer risks associated with exposure to glyphosate and [glyphosate-based herbicide] products.”

NRDC also said EPA’s label changes are inadequate to protect monarch butterflies. The environmental group said EPA’s own spray drift analysis suggests the need for buffers of up to 620 feet for aerial application and up to 157 feet for ground application.

“Despite these findings, the EPA’s drift mitigation measures only make specifications to boom height, application height and droplet size, but they do not call for ANY buffer distance,” NRDC said.

The JGTF supported the new label language. “By applying good agricultural practices and by using the appropriate spray drift mitigation approaches as proposed ..., off-target drift that may encounter monarch butterfly breeding or foraging habitat should be avoidable,” the task force said.

EPA plans to have a proposed decision ready by the second quarter of the federal fiscal year — between Jan. 1 and March 31, 2020.

## **PFAS**

<https://news.bloombergenvironment.com/environment-and-energy/chemours-dupont-conflict-heightens-over-fluorochemicals>

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<https://www.politico.com/newsletters/morning-energy/2019/09/10/pfas-manufacturers-lawmakers-to-clash-at-hearing-476069>

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<https://www.eenews.net/greenwire/2019/09/11/stories/1061113193>

## **Bloomberg Environment**

### **"Chemours, DuPont Conflict Heightens Over Fluorochemicals"**

<https://news.bloombergenvironment.com/environment-and-energy/chemours-dupont-conflict-heightens-over-fluorochemicals>

**Sylvia Carnigan**

The question of who is liable for the chemicals contaminating drinking water across the U.S. is pitting Dupont against its spinoff, The Chemours Co.

The companies responded Sept. 10 to Democratic lawmakers' concerns that per- and polyfluoroalkyl substances, or PFAS, affect human health and the environment. Both the House and Senate are working on legislation to address exposure to the substances, known as "forever chemicals" for their persistence in the environment and in human bodies.

DuPont said that profitable Chemours is "fully capable" of cleaning up the chemical sites it owns and operates, while Chemours told House Oversight subcommittee members that's not the case.

"You have two major corporations here pointing fingers at each other," Rep. John Sarbanes (D-Md.) said at the subcommittee hearing.

The companies are embroiled in a legal battle over the environmental liabilities Chemours holds, and whether the company is able to handle them.

"They're in a great financial position," Daryl Roberts, chief operations and engineering officer at DuPont de Nemours Inc., said of Chemours at the hearing. "There's no reason they would need our help to clean up their sites."

## **Health Effects**

The chemicals could cause adverse health effects, including developmental harm to fetuses, testicular and kidney cancers, liver tissue damage, immune system or thyroid effects, and changes in cholesterol, according to the Environmental Protection Agency.

DuPont and Chemours own sites where PFAS chemicals were once used.

Rep. Katie Hill (D-Calif.) noted that Chemours' liabilities for PFAS cleanup in Cape Fear, N.C., was once estimated at about \$2 million.

"Chemours later learned that the cleanup would be more than \$200 million," she said. "And that's a big difference."

Rep. Dan Kildee (D-Mich.) asked Paul Kirsch, Chemours' president of fluorochemical products and the company's representative at the hearing, if the company has adequate resources to clean up the chemicals.

"The answer will be a clear no," Kirsch said.

In its lawsuit earlier this year against DuPont regarding their 2015 spinoff agreement, Chemours claimed that DuPont's estimates of Chemours' environmental liabilities were "spectacularly wrong."

'National Emergency'

PFAS are present in many consumer and industrial products, including nonstick and stain-resistant coatings in clothing, fast-food wrappers, and carpets. Firefighting foams, especially those made to put out fuel fires, also commonly contain PFAS.

The chemicals have appeared in air, water, and soil samples from around the country, although states and federal authorities disagree about what amounts of the chemicals are unsafe.

"We're dealing with a national emergency here," Rep. Harley Rouda (D-Calif.), the subcommittee's chair, said at the hearing.

Although the EPA has a plan to address PFAS, many states have opted to create standards of their own or investigate the contaminants themselves.

#### **Bloomberg Environment**

##### **"Colorado Hastens Cleanup as PFAS Found in More Sites Near Denver"**

<https://news.bloombergenvironment.com/environment-and-energy/colorado-hastens-cleanup-as-pfas-found-in-more-sites-near-denver>

**Tripp Baltz**

Groundwater testing has uncovered higher concentrations of fluorinated chemicals in the Denver and Colorado Springs areas than was previously known, state health officials said.

The discovery of greater amounts of per- and polyfluoroalkyl substances, or PFAS, in new locations in Denver, Boulder, and Colorado Springs—often near firefighting facilities and Air Force bases—has prompted officials within the Colorado Department of Public Health and Environment to ramp up their efforts to clean up contaminated drinking water supplies.

PFAS are a group of chemicals including PFOA, PFOS, GenX, and other substances that were used in a variety of consumer and industrial products, especially firefighting foam, according to the EPA. PFOA and PFOS persist in the environment and the human body, and can contribute to adverse health effects such as cancer, as well as reproductive, developmental, liver, kidney and immune system problems. The EPA has not set a national regulatory standard for PFAS.

'More Prevalent'

Testing at Buckley Air Force Base in Denver, the Suncor oil refinery, and a new firefighting district in Boulder led to the discovery of higher concentrations of PFAS in Colorado, according to John Putnam, director of environmental programs at the department.

Colorado has had a PFAS action plan for some time, but it will be ramping up efforts since it's "finding contamination to be more prevalent than we first thought," Putnam said Sept. 10.

"We'll try to find where these chemicals are and make sure people aren't drinking, eating, or otherwise consuming them," he said.

Steps in Colorado's action plan include beginning a public process to consider a regulatory standard for PFAS that would compel testing and require polluters to clean up contaminated water and soil, he said.

After significant PFAS contamination was found in a groundwater aquifer near Peterson Air Force Base in Colorado Springs, the state approved a site-specific PFAS standard. One option would be to make that a statewide standard, Putnam said.

Another step might be establishing a state laboratory to conduct testing, instead of sending samples out-of-state to an EPA-certified lab, which can cost as much as \$450 per sample, he said.

#### Air Force Academy

PFOS and PFOA levels above the EPA health advisory were discovered during site inspections that took place at the U.S. Air Force Academy north of Colorado Springs. Contamination from past firefighting exercises was found in groundwater, surface water, soil, and sediment samples, according to results reported by the Air Force Civil Engineer Center Aug. 22.

The Air Force will conduct an expanded inspection in the coming months to assess potential risk to private drinking water wells south of the academy, Michael Kucharek, a spokesman for the academy, said Sept. 10.

"The Air Force's priority is protecting human health and drinking water sources," he said.

If PFOS or PFOA levels are found in excess of the 70 parts per trillion, and if the Air Force is determined to be a likely contributor of the contamination, it will take steps such as providing households with bottled drinking water, connecting homes to a municipal drinking water supply, or installing a treatment or filtration system on private wells, he said.

#### State Law

Colorado Gov. Jared Polis (D) signed a bill (H.B. 1279) June 3 banning the use of certain PFAS-containing firefighting foams in training and testing exercises. The act requires manufacturers of PFAS foam to notify sellers of the ban.

And Colorado's environment department announced, in conjunction with the state Department of Transportation, the approval of \$400,000 in aviation funding to assist the state's 14 Federal Aviation Administration-certified airports with getting equipment to reduce the environmental harm of firefighting foams containing PFAS.

FAA-certified airports are required by federal regulations to use PFAS-based foam and to annually test firefighting equipment by discharging foam from a vehicle into a container. Foam often comes into contact with the ground, winding up in soil, surface water, and groundwater.

#### **GreenWire**

##### **"Senate defense bill has PFAS, storm provisions"**

<https://www.eenews.net/greenwire/2019/09/10/stories/1061111775>

#### **Philip Athey**

The Senate Defense Appropriations Subcommittee approved spending legislation this morning with provisions related to severe weather and chemicals.

The measure would provide the Department of Defense with \$694.9 billion for the upcoming fiscal year. The panel didn't consider amendments, but subcommittee ranking member Dick Durbin (D-Ill.) said that would change at the full committee markup Thursday.

"Congress cannot and should not be silent when the power of the purse is undermined in this way," Durbin said, objecting to President Trump's use of appropriated military spending to construct his promised border wall.

"I will not offer any amendments today to address the wall," Durbin added, "but I am certain my colleagues and I will be ready on Thursday at full committee to ask this subcommittee and all the members of the Appropriations Committee to stand up for our own constitutional responsibility."

The bill includes \$251 million to combat the toxic chemicals known as per- and polyfluoroalkyl substances, or PFAS, that have contaminated hundreds of military bases.

The man-made chemicals, known for nonstick and water-resistant properties, have been used in firefighting foam by the military for decades but have recently been linked to health issues, like thyroid disease, birth defects and some cancers.

The spending bill would provide nearly \$200 million for "investigations and remediation on bases and in communities adjacent to bases," a summary of the bill said.

Another \$43 million would go to disposing of and replacing the firefighting foam, and the final \$10 million would help fund a Centers for Disease Control and Prevention study on the chemical to better understand its health impacts.

In addition to the PFAS spending, the bill includes \$1.7 billion in emergency disaster assistance to the military, in response to Hurricanes Michael and Florence.

Hurricane Michael caused roughly \$4.7 billion in damages to Tyndall Air Force Base when the storm made landfall in October 2018, but the military has committed to rebuilding the base "bigger" and "stronger" (Greenwire, Aug. 15).

According to the summary, most of the new funding would go to "storm cleanup, facilities repairs and replenishment of supplies."

Separately, Senate appropriators are delaying the release of their Labor-Health and Human Services-Education bill until they settle a dispute over a potential poison pill amendment.

### **Politico Pro**

#### **"PFAS manufacturers, lawmakers to clash at hearing"**

<https://www.politico.com/newsletters/morning-energy/2019/09/10/pfas-manufacturers-lawmakers-to-clash-at-hearing-476069>

**Kelsey Tamborrino**

**PFAS MANUFACTURERS TESTIFY:** Executives from three current and historic manufacturers of PFAS are due on Capitol Hill this afternoon to testify for the first time about what they knew about the dangers of the toxic chemicals, when they knew it, and what they did about it. But before representatives from 3M, DuPont and Chemours speak, a pair of lawyers who brought lawsuits against manufacturers on behalf of the state of Minnesota and residents of Parkersburg, W.Va., will lay out for lawmakers what documents made public by their litigation show the companies knew. Here's ME's guide to what to watch for:

**The legislation:** Today's hearing comes as leaders in the House and Senate seek a final deal for regulating the widely used chemicals as part of conference negotiations on the 2020 defense bill. While heavy hitters in the chemicals industry have been pushing back on efforts to force EPA regulations, DuPont's Chief Operating and Engineering Officer Daryl Roberts will call for lawmakers to enact specific provisions, including those requiring EPA to set a drinking water standard within two years, to require public disclosures of releases under the Toxics Release Inventory and "to list PFOA and PFOS as hazardous substances under CERCLA within one year," according to excerpts of the testimony shared with POLITICO.

The science: Internal documents from the West Virginia and Minnesota cases show that 3M and DuPont knew as early as the 1960s that PFOA and PFOS harmed animals, and by the 1980s they had linked the chemicals with health effects in their workers. Expect lawmakers to press the companies to admit the chemicals' pose dangers to humans — something they have been reluctant to do. For instance, a press release from 3M on Monday argued that "the weight of scientific evidence does not establish that PFAS cause any adverse human health effects at current or past levels typically found in the environment."

The spin-off: After decades of using PFOA in its Teflon products, and more than a decade of manufacturing the chemical itself, DuPont spun its PFAS business off into a separate company, Chemours, in 2015. DuPont later merged with Dow, and that mega-company then dissolved into three new, separate entities. "New DuPont" has taken pains to separate itself from PFAS and has argued that all historic liabilities sit with Chemours — an argument that Chemours and others are now challenging in court.

### **Politico Pro**

#### **"Chemical-makers seek to dodge culpability at PFAS hearing"**

<https://subscriber.politicopro.com/article/2019/09/chemical-makers-seek-to-dodge-culpability-at-pfas-hearing-1722696>

**Annie Snider**

Executives from three of the country's biggest chemical makers sought to dodge culpability for toxic PFAS chemicals during a three-hour congressional hearing on Tuesday, denying the science, pointing fingers at each other and trying to explain away internal memos that showed they had decades' worth of evidence of the danger posed by the substances.

The hearing of the House Oversight Environment Subcommittee, with top executives from 3M Co., DuPont and Chemours Co., was the first time major manufacturers have testified about their actions relating to the class of chemicals that have been found in 99 percent of Americans' blood and are linked with cancer, immune problems and high cholesterol.

Despite the significant body of scientific evidence showing the chemicals' harms — including studies conducted by 3M's own scientists — and a decision by the company in 2000 to voluntarily phase out its production of two of the profitable chemicals, PFOA and PFOS, a top 3M executive argued that the chemicals have not harmed a single American.

"There is no cause and effect for adverse human effects at the levels that we are exposed to," said Denise Rutherford, 3M's senior vice president for corporate affairs, who repeatedly said that there are "inconsistencies in the data."

Democratic lawmakers responded incredulously.

"So your point is, no one in America right now — no one — has been a victim of any PFAS chemicals, all 5,000, including PFOA and PFOS? That's your position?" asked Subcommittee Chairman Harley Rouda (D-Calif.).

Rep. Alexandria Ocasio-Cortez (D-N.Y.) confronted Rutherford with a letter from a 3M scientist and environmental specialist who in 1999 resigned from the company over its handling of PFAS, calling it "the most insidious pollutant since PCB."

"Why is 3M taking the position of denying the scientific findings of its own scientists?" she asked.

Tuesday's hearing took place as lawmakers are working on legislation to regulate the class of chemicals. Both the House and Senate passed PFAS measures as part of their annual defense bills this summer, and leaders are now attempting to hammer out a compromise between the two significantly different packages.

Two of the companies, DuPont and Chemours, backed specific legislative provisions on Tuesday, including ones that would require a drinking water limit and public disclosure of the chemicals' release. DuPont, which no longer produces

the chemicals at issue, supported the most stringent plan, calling for EPA to designate PFOA and PFOS as hazardous for the purposes of Superfund cleanups.

"That's further than the other companies are willing to go today," said Daryl Roberts, the chief operations and engineering officer at DuPont. "But that's what we believe is correct."

The Trump administration has opposed many of the legislative provisions, and lawmakers seeking to advance regulation called the two companies' endorsements a "breakthrough moment."

"Some of the companies that would be regulated under these policies have now publicly declared their support for them — that's consequential, and I commend them for their constructive engagement on the legislation being considered by Congress," Sen. Tom Carper (D-Del.) said in a statement.

Unlike the other two companies, DuPont expects to face few financial repercussions from a Superfund designation. DuPont had used PFOA for decades in its Teflon products, but it spun off its PFAS line into Chemours, which it created as a separate company in 2015. It also saddled Chemours with liability for contaminated sites and associated litigation.

Chemours claims that it was left holding the bag for two-thirds of DuPont's liabilities and 90 percent of its litigation without enough resources to cover it. For instance, DuPont estimated the upper end of its liabilities at its North Carolina plant to be \$2.09 million, but Chemours testified that it has now spent more than 100 times the amount DuPont set aside for that plant to deal with emissions and cleanup of PFAS.

Asked during the hearing if Chemours was given adequate financial resources to cover PFAS liabilities, Chemours executive Paul Kirsch replied, "The answer would be a clear no."

Lawmakers argued this could ultimately leave taxpayers on the hook for the contaminated sites and health problems.

"The question is, who is going to pay for the injuries and the clean-up? The companies or the taxpayers?" asked Rep. Katie Hill (D-Calif.).

Rep. Dan Kildee (D-Mich.), whose district includes a major contamination site, broke out in frustration at one point.

"We have companies that have benefited in the millions and billions of dollars by selling these products into commerce, who now want to point the finger at somebody else, or say, 'Well, we're not going to produce these chemicals anymore but believe me, there is no science that says they aren't safe.' I take issue with that."

For their part, the committee's Republicans argued that the attorneys who have sued PFAS manufacturers were acting in pursuit of personal gain. Two of those attorneys — Rob Bilott, who represented plaintiffs who lived near DuPont's West Virginia Teflon plant in a suit in the early 2000s seeking damages for health harms, and Lori Swanson, who sued 3M for the state of Minnesota — testified at the hearing.

Subcommittee ranking member Rep. James Comer (R-Ky.) pressed Bilott about his firm's earnings from the litigation.

"It's been reported that you and your firm earned \$21.7 million from that settlement, is that correct?" Comer said.

"The law firm ended up getting paid," Bilott responded, saying the litigation took two decades worth of work. "But the only way we know about what we know right now about PFAS was from that litigation."

## **GreenWire**

### **"Report shows wider PFAS exposure at Army bases"**

<https://www.eenews.net/greenwire/2019/09/11/stories/1061113193>

**Ariana Figueroa**

Toxic chemicals known as PFAS were found at an additional 90 current and former Army installations, according to the Environmental Working Group.

The claim is based on data the group obtained from the Department of Defense through the Freedom of Information Act.

The data shows that between 2016 and 2019, toxic chemicals known as per- and polyfluoroalkyl substances, or PFAS, were detected in the groundwater at 108 Army and Army National Guard bases, up from 18.

PFAS are man-made chemicals, known for their nonstick and water-resistant properties, and were components in firefighting foam used by the military for decades. Now the chemicals are linked to health issues, like thyroid disease, birth defects and some cancers.

"These results are alarming, because they show that PFAS contamination of the water provided to our soldiers is nationwide and exposes them to a number of types of PFAS," EWG Senior Scientist David Andrews said in a statement. "Because many PFAS chemicals build up in the body, even very low concentrations in drinking water can increase the risks of serious health problems."

Yesterday, the Senate Defense Appropriations Subcommittee advanced a \$695 billion defense spending bill that would allocate \$251 million for the military to combat PFAS contamination on bases (Greenwire, Sept. 10).

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